MONTANA LEGISLATIVE HISTORY

Chapter 646 19 85

Bill H 114 S _____ Original bill & history ✓ C

H. Committee on Human Services & Aging			S. Committee on Public Health, Welfare, & Safety		
Hearing Date(s)	1/16	✓ C	Hearing Date(s)	3/11	✓ C
		C			C
		C			C
		C			C
Date Out	1/21	✓ C		3/13	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

HB 111 INTRODUCED BY D. BROWN, PAVLOVICH, ET AL.
UNIVERSITIES, COLLEGES, & VO-TECHS TO APPLY EMPLOYMENT PREFERENCE

1/07	INTRODUCED		
1/07	REFERRED TO JUDICIARY		
1/22	HEARING		
1/22	COMMITTEE REPORT-BILL PASS AS AMENDED		
1/25	2ND READING PASS AS AMENDED	87	7
1/28	3RD READING PASS	97	2
	TRANSMITTED TO SENATE		
1/29	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/11	HEARING		
3/06	ADVERSE COMMITTEE REPORT	34	11
3/06	BILL KILLED		

HB 112 INTRODUCED BY D. BROWN
ALLOCATION OF RESEARCH GRANT INDIRECT COST REIMBURSEMENTS

1/07	INTRODUCED		
1/07	REFERRED TO APPROPRIATIONS		
1/30	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
3/21	HEARING		
	DIED IN COMMITTEE		

HB 113 INTRODUCED BY MILES
REQUIRING LABORATORIES TO REPORT CANCER DATA
BY REQUEST OF DEPARTMENT OF HEALTH

1/07	INTRODUCED		
1/07	REFERRED TO HUMAN SERVICES & AGING		
1/11	HEARING		
1/12	COMMITTEE REPORT-BILL DO PASS		
1/14	2ND READING PASS	93	4
1/16	3RD READING PASS	93	5
	TRANSMITTED TO SENATE		
1/18	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/25	HEARING		
1/26	COMMITTEE REPORT-BILL CONCURRED		
1/28	2ND READING CONCURRED	48	0
1/30	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
2/02	SIGNED BY SPEAKER		
2/02	SIGNED BY PRESIDENT		
2/04	TRANSMITTED TO GOVERNOR		
2/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 12 EFFECTIVE DATE: 2/05/85		

HB 114 INTRODUCED BY MILES
DEPARTMENT OF HEALTH TO ADOPT SWIMMING POOL SAFETY STANDARDS
BY REQUEST OF DEPARTMENT OF HEALTH

1/07 INTRODUCED

HOUSE FINAL STATUS

1/07	REFERRED TO HUMAN SERVICES & AGING		
1/16	HEARING		
1/22	COMMITTEE REPORT-BILL DO PASS		
1/22	STATEMENT OF INTENT ATTACHED		
1/25	2ND READING PASS	91	5
1/26	3RD READING PASS	86	0
	TRANSMITTED TO SENATE		
1/28	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/11	HEARING		
3/14	COMM REPORT-BILL CONCURRED AS AMENDED		
3/18	2ND READING CONCURRED AS AMENDED	48	0
	STATEMENT OF INTENT AMENDED		
3/20	3RD READING CONCURRED	45	5
	RETURNED TO HOUSE WITH AMENDMENTS		
4/02	2ND READING AMENDMENTS CONCURRED	97	1
4/03	3RD READING AMENDMENTS CONCURRED	93	4
4/12	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/12	TRANSMITTED TO GOVERNOR		
4/16	RETURNED WITH GOVERNOR'S AMENDMENTS		
4/18	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	94	1
4/19	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	94	2
	TRANSMITTED TO SENATE		
4/22	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
4/23	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	47	2
	RETURNED TO HOUSE		
4/25	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 646 EFFECTIVE DATE: 4/30/85		

HB 115 INTRODUCED BY MILES
PUBLIC ACCESS TO DEATH CERTIFICATES - PROTECTION OF LIVING PERSONS' PRIVACY
BY REQUEST OF DEPARTMENT OF HEALTH

1/07	INTRODUCED
1/07	REFERRED TO JUDICIARY
1/09	HEARING
	DIED IN COMMITTEE

HB 116 INTRODUCED BY MILES
REMOVE REQUIREMENT OF PERSON CERTIFIED IN WATER SAFETY FOR PRIVATE POOLS
BY REQUEST OF DEPARTMENT OF HEALTH

1/07	INTRODUCED
1/07	REFERRED TO HUMAN SERVICES & AGING
1/16	HEARING

HOUSE BILL NO. 114

INTRODUCED BY MILES

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO SWIMMING POOLS AND BATHING PLACES; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY SET SAFETY STANDARDS FOR PUBLIC SWIMMING POOLS AND BATHING PLACES; AMENDING SECTIONS 50-53-101 THROUGH 50-53-103 AND 50-53-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-53-101, MCA, is amended to read:

"50-53-101. Purpose of regulation. It is the public policy of this state to regulate public swimming pools and public bathing places to protect public health and safety."

Section 2. Section 50-53-102, MCA, is amended to read:

"50-53-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

~~(1)--"Board"---means---the---board---of---health----and environmental-sciences,-provided-for-in-2-15-2104.~~

~~(2)~~(1) "Department" means the department of health and environmental sciences, provided for in Title 2, chapter 15, part 21.

~~(3)~~(2) "Person" means a person, firm, partnership, corporation, organization, the state, or any political subdivision of the state.

~~(4)~~(3) "Public bathing place" means a body of water with bathhouses and related appurtenances operated for the public.

~~(5)~~(4) "Public swimming pool" means an artificial pool and bathhouses and related appurtenances for swimming, bathing, or wading, including natural hot water pools. The term does not include:

(a) swimming pools located on private property used for swimming or bathing only by the owner, members of his family, or their invited guests; or

(b) medicinal hot water baths for individual use."

Section 3. Section 50-53-103, MCA, is amended to read:

"50-53-103. ~~Duties---of---department.~~ Sanitation and safety rules. ~~(1)~~ The department shall adopt rules ~~for~~ setting standards to ensure sanitation and safety in public swimming pools and public bathing places to protect public health and safety.

~~(2)--The--department--shall-supervise-the-sanitation-of public-swimming-pools-and-public-bathing-places.~~"

Section 4. Section 50-53-108, MCA, is amended to read:

INTRODUCED BILL HB 114

LC 0506/01

"50-53-108. Unauthorized construction or operation a public nuisance. The construction or operation of a public swimming pool or public bathing place contrary to the provisions of this chapter or rules adopted by the department under the provisions of this chapter is a public nuisance and dangerous to public health and safety."

NEW SECTION. Section 5. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW SECTION. Section 6. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Extension of authority. Any existing authority of the department of health and environmental sciences to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 8. Effective date. This act is effective on passage and approval.

-End-

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

49th LEGISLATIVE SESSION

COMMITTEE ON HUMAN SERVICES AND AGING

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 44	1/7	1/9	1/9	1/9					
HB 46	1/7	1/9	1/9		1/9				
HB 49	1/7	1/16	1/16		1/16				
HB 52	1/7	1/9	1/9	1/9					
HB 113	1/7	1/11	1/11	1/11					
HB 114	1/7	1/16	1/16	1/16					
HB 116	1/7	1/16	1/16	1/16					
HB 119	1/7	1/11	1/11	1/11					
HB 141	1/11	1/16	1/16	1/16					
HB 142	1/11	1/16	1/16	1/16					
HB 165	1/14	1/21	1/21			1/21			
HB 169	1/14	1/25	1/25	1/25					
HB 182	1/14	1/18	1/18	1/18					
HB 183	1/15	2/06	2/06	2/06					
HB 202	1/16	1/21	1/21	1/21					
HB 228	1/17	1/25	1/25			1/25			

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 16, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on January 16, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol building.

ROLL CALL: All members were present.

HOUSE BILL NO. 116: Hearing commenced on House Bill No. 116. Representative Joan Miles, District 45, sponsor of the bill stated that an act to delete the requirement that a privately owned public swimming pool have a lifeguard unless a person certified as trained in basic water safety measures is accessible to the pool was needed. Before 1983, the laws governing swimming pools required that any public pools had a lifeguard. Last year, the legislature decided that a bill introduced by Senator Story, wanted to eliminate lifeguard from privately owned public pools. The intent of that was because it was a financial hardship on hotel and motel owners. His bill said that no lifeguard was needed as long as it was posted. The Committee that heard that bill was worried about just doing away with lifeguard requirements at all and put in two clauses, one that someone would be on the premises that is trained in basic water safety and cardiopulmonary resuscitation (CPR). It has been determined in the two years since the legislature decided to operate without lifeguards and practice water safety that that course is not accessible especially in rural areas. Ms. Miles also indicated that within the two years since this law has been a part of the statute, there is not a single swimming pool operator in the state that is meeting both of these qualifications. The intent is that since the Legislature decided to not require lifeguards we are eliminating the requirement for basic water safety. Ms. Miles stated that she proposes to keep in the CPR requirements because this is something that is available anywhere in the state and is a very accessible course for persons to acquire and it is the single most important thing that someone on the premises is the best life saving technique.

Proponent was Sam Murfitt of the Montana Department of Health and Environmental Sciences, Food Consumer Safety Bureau. Written testimony was given and is attached hereto as Exhibit 1. Proponent Phil Strope of the Montana Innkeepers Association, which is a trade association representing the lodging industry of the state, endorsed the bill. There being no further proponents or opponents, Chairperson Keenan closed the discussion on House Bill 116.

Questions were raised by Representatives Phillips and Gould.

There being no further discussion to House Bill No. 116, the hearing was closed.

HOUSE BILL NO. 114: Hearing commenced on House Bill No. 114. Representative Joan Miles, District #45, sponsor of the bill, stated an act to generally revise and clarify the laws relating to swimming pools and bathing places; clarifying that the Department of Health and Environmental Sciences may set safety standards for public swimming pools and bathing places was needed. Ms. Miles presented a Statement of Intent. She also stated that House Bill No. 114 was a rerun from last year. This bill clarifies that the State Health Department not only has the jurisdiction over public health but also safety in regard to swimming pools. The two instances were that health and safety have been eliminated from the current bill. She indicates that these regulations are not substantive because the Montana Department of Health and Environmental Sciences does not really have the authority to adopt a regulation on safety.

Proponent Sam Murfitt of the Montana Department of Health and Environmental Sciences, Food and Consumer Safety Bureau supplied written testimony which is attached hereto as Exhibit 2. There were no further proponents to House Bill No. 114.

Opponents to the bill were Phil Strope of the Innkeepers Association of Montana who indicated that he questioned as to whether he was a proponent or an opponent to this bill. Mr. Strope indicated that this bill had been killed in 1977, 1979 and 1981. He also mentioned that he had inquired from pool liability carriers who typically have coverage on most of the public pools in the hotels and motels of this state and the general comment was that the liability risk of the carriers has not increased. The carrier would probably charge the same fee whether the state was or was not involved. There being no further opponents to this bill, discussion opened to the questions. Questions were raised by Representatives Gould, Darko, Phillips, Bergene, Wallin, Simon and Waldron.

There being no further questions, Chairperson Keenan closed the discussion.

HOUSE BILL NO. 141: Representative Rex Manuel, District #11, sponsor of the bill indicated that an act to delete the requirement that the Department of Health and Environmental Sciences perform syphilis tests without charge was needed.

Proponent Yvonne Sylva, Administrator of Management Services, Montana Department of Health and Environmental Sciences supported this bill as indicated in Exhibit 3.

There were no opponents to this bill.

EXHIBIT 2
January 16, 1985

INFORMATION RELATIVE TO H.B. 114

Historically, safety has been a major portion of a total swimming pool program throughout the nation.

In Montana, safety has been a major portion of the swimming pool program since 1967 when the present law was passed. The law was written with safety included in some sections and not in others. In those sections where the terms "safety" or "safe" were not used, the term "to protect the public health" was substituted.

Rules were adopted pursuant to the law and both safety and sanitation were addressed.

The purpose of this bill is therefore to clarify those sections where the term "to protect public health" is used instead of the terms "safe" or "safety" and to make those sections consistent with the rest of the law.

Some of the items which would be covered under the "safety" heading are as follows: improper bottom slope, inadequate depth for diving, absence of shallow end, lighting, underwater protrusions, no pool decking, warning signs or other life saving apparatus, depth markings, fencing, pool water clarity, etc.

In many cases safety and sanitation aspects of swimming pool design, maintenance and operation are interrelated. For example, water clarity (which can be a safety problem) is maintained by proper balancing of water chemistry (chlorine, pH, etc.) which in turn inhibits bacterial growth and the transmission or spread of disease.

Swimming pool safety rules are supported and recommended by the swimming pool industry and expected by the general public utilizing public swimming facilities.

Proposed amendment to HB 114 as introduced:

1. Page 2, line 19.
Following: "~~(1)~~"
Insert: "(1)"

2. Page 2.
Following: line 24
Insert: "(2) Any rule that is a building regulation as defined in 50-60-101 is effective only when the department of administration approves it and files it with the secretary of state as part of the state building code pursuant to 50-60-204."

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 16, 1985

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

VISITOR'S REGISTER

HOUSE HUMAN SERVICES AND AGING COMMITTEE

BILL HB 114 DATE 1/16/85

SPONSOR Joan Miles

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
SAM MULFU	DHES	DHES	X	
N.J. KEMBEL	DOA	DOA	Questions & Information	
Ellie Parker	Helena	~~DHES~~	X	
Joan M. Peterson	Helena	DHES	X	
David Lackman	~~Helena~~	MT Public H/Ha. Assn	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 21, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on January 21, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 202: Hearing commenced on House Bill No. 202. Representative Steve Waldron, District #58, sponsor of the bill stated an act revising the method of funding community mental health services; eliminating the authority to transfer funds from the Montana State Hospital to community mental health services and for reversion of such funds was needed.

Proponents included Carroll South of the Montana Department of Institutions who indicated applicable patients served in the community instead of in an institution was far less expensive; Joy McGrath of the Mental Health Center and David Briggs of the Mental Health Center also testified.

There were no further proponents or opponents present. Representative Waldron closed the discussion.

Questions were asked by Representative Wallin.

There being no further discussion on House Bill No. 202, the hearing was closed.

HOUSE BILL NO. 165: Hearing commenced on House Bill No. 165. Representative Mary Ellen Connolly, District #8, sponsor of the bill said an act providing for annual unannounced inquiries at long-term care facilities by the Department of Health and Environmental Sciences was needed.

Proponent Representative Paul G. Pistoria commented on the abuse of patients in nursing homes; Tom Ryan of the Montana Senior Citizen Association indicated that inspections should be unannounced; Paul Birch said that visits should not be announced because care of patients after an inspection will revert back to bad care if a yearly inspection was accepted; Joe Upshaw of the Association of Retired People indicated his support of unannounced inspections and inspections more than on a yearly basis; Nancy Harte of the Montana Democratic Party supplied testimony attached hereto as Exhibit 1; Wade Wilkerson indicated his support; Shirley Thennis of the Montana Nurses' Association supplied a witness statement; George M. Fenner, Administrator of the Health Services and Medical Facilities Division of the Montana Department of Health and Environmental Sciences

questions paragraph 4 of the bill; Charles Briggs of the Governor's Office indicated his support; Anne Brodsky of the Women's Lobbyist Fund supplied her testimony and is attached as Exhibit 3; Doug Blakley of the Long Term Care Association and Jim Smith of the Human Resources Association indicated their support; Rose Skoog with the Montana Health Care Association supplied testimony and is attached herewith as Exhibits 4 and 5. Ms. Skoog also supplied a proposed amendment to this bill and is attached as Exhibit 6. Frank Gresgon, a local insurance salesman supports this bill and Bill Larry of the Montana Hospital Association suggests that a Saturday or Sunday inspection would not be feasible; Virginia Dawkin commented on the care of a family member in a Montana nursing home.

There were no further proponents or opponents to this bill.

The discussion was closed by Representative Connolly.

Questions were raised by Representatives Waldron, Wallin, Hart, Simon, Bergene, Phillips and Cohen.

There being no further discussion on House Bill No. 165, the hearing was closed.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 165: A Fiscal Report will be ordered by Chairperson Keenan on this bill and further action will be taken at a later date.

ACTION ON HOUSE BILL NO. 114: Representative Joan Miles, sponsor of the bill, supplied information to this bill and is attached as Exhibit 7. Representative Darko made a motion that House Bill No. 114 DO PASS. Representative Waldron seconded the motion. A roll call vote was taken (11 voted Yes and 7 voted No). A statement of intent was indicated and House Bill No. 114 voted DO PASS.

ACTION ON HOUSE BILL NO. 202: Representative Bergene made a motion that House Bill No. 202 DO PASS. Representative Brown seconded the motion and the bill was unanimously voted to DO PASS.

EXHIBIT 7
January 21, 1985

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE JOAN MILES

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
HOME ADDRESS:
P.O. 105
HELENA, MONTANA 59624
PHONE: (406) 449-7035

COMMITTEES:
JUDICIARY
NATURAL RESOURCES

Jan 18, 1985

To: House Human Services Committee
Subj: HB114 - Swimming Pools / Safety Stds.

Dear Chairman Keenan;

During the hearing (Jan 16) on HB114 (concerning swimming pools and safety standards), there was some confusion as to whether or not this bill had been before the legislature prior to 1983. My understanding from the State Health Department was that 1983 was the first time the legislature discussed the subject matter in HB114. Mr. Phil Strope, representing the innkeepers, alleged that this had been before the legislature several times before that.

I spent quite a bit of time with the head of the legislative Council Library researching whether or not prior bills had been introduced. Council records show no record of any such legislation as far back as 1973. Unless it was a discussion brought up before the legislature in a general manner, to my knowledge, Mr Strope's comments were in error.

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 21, 1985

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE HUMAN SERVICES AND AGING

DATE 1/21/85 House Bill No. 114 Time 4:45

NAME	YES	NO
Nancy Keenan	X	
Bud Gould		X
Toni Bergene	X	
Dorothy Bradley	X	
Jan Brown	X	
Bud Campbell	X	
Ben Cohen	X	
Mary Ellen Connelly	X	
Paula Darko	X	
Bob Gilbert		X
Stella Jean Hansen	X	
Marian Hanson		X
Marjorie Hart	X	
Harriet Hayne		X
John Phillips		X
Bruce Simon		X
Steve Waldron	X	
Norm Wallin		X

Alberta Strachan
Secretary

Nancy Keenan
Chairman

Motion: Representative Darko made a motion that House Bill 114 DO PASS. Representative Waldron seconded the motion. A roll call vote was taken, a statement of intent was voted upon and House Bill No. 114 was voted to DO PASS

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

STANDING COMMITTEE REPORT

January 16 19 85

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 114

first reading copy (white color)

An act to generally revise and clarify the laws relating to swimming pools and bathing places; clarifying that the Department of Health and Environmental Sciences may set safety standards for public swimming pools and bathing places

Respectfully report as follows: That House Bill No. 114

DO PASS

STATEMENT OF INTENT ATTACHED

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

January 21 19 85

STATEMENT OF INTENT

A statement of intent is needed for House Bill 114 because it grants the department of health and environmental sciences express authority to adopt enforceable, binding rules setting safety standards for public swimming pools and bathing places.

The department presently has the authority to ensure that public swimming pools and bathing places are safe. However, the section of the law granting the department authority to make binding rules relating to swimming facilities omits mention of safety standards. Therefore, the rules the department has adopted to indicate the safety measures it considers necessary to protect public health are not legally binding, except in regard to pools in hotels, motels, roominghouses, tourist homes, boardinghouses, or retirement homes, for which the department has separate regulatory authority under other statutes.

Therefore, it is the intent of the legislature that the department of health and environmental sciences have express rulemaking authority to adopt binding safety standards for swimming pools and bathing places, including construction specifications and operational requirements such as lifeguards.

Chairman.

STATE PUB. CO.
Helena, Mont.

CHAIRMAN--JACOBSON, JUDY
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: M-W-F TIME: 12:30-2:30 P.M.
SECRETARY-GRAVELEY, ELAINE

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0107	1/19	1/25		CONCUR		1-25
MILLER, RON			REVISION OF ELECTROLOGY LAWS			
HB0113	1/18	1/25		CONCUR		1-25
MILES, JOAN			REQUIRING LABORATORIES TO REPORT CANCER DATA			
HB0114	1/28	3/11	3/13	CONCUR AS AMENDED		3-13
MILES, JOAN			DEPARTMENT OF HEALTH TO ADOPT SWIMMING POOL SAFETY STANDARDS			
HB0116	1/22	1/30	2/06	CONCUR		2-6
MILES, JOAN			REMOVE REQUIREMENT OF PERSON CERTIFIED IN WATER SAFETY FOR PRIVATE POOLS			
HB0119	1/18	1/25		CONCUR AS AMENDED		1-25
MILES, JOAN			TB CONTROL REVISION			
HB0141	1/23	1/30	2/04 2/06 2/08		FINANCE & CLAIMS	
MANUEL, REX			DEPARTMENT OF HEALTH ALLOWED TO CHARGE FOR SYPHILIS TESTS			
HB0142	1/22	1/30	2/04	CONCUR		2-4
MANUEL, REX			CONFORMING IN-STATE AND OUT-OF-STATE PREMARITAL SEROLOGY TEST TIME LIMITS			
HB0169	2/04	3/06		CONCUR		3-6
DONALDSON, GENE			HANDICAPPED PARKING PRIVILEGE FOR 100 PERCENT DISABLED VETERANS			
HB0180	1/26	2/08	3/06	CONCUR		3-6
REAM, BOB			AUTHORITY TO COMPEL COMPLIANCE WITH HAZARDOUS WASTE ACT			
HB0182	1/26	2/06	3/06	CONCUR		3-6
BERGENE, TONI R.			DELETE DHES APPROVAL OF LABS DOING BLOOD GROUP TESTS			
HB0186	2/13	3/13	3/15	CONCUR AS AMENDED		3-15
PISTORIA, PAUL G.			COUNTY ORDINANCE TO CONTROL COMMUNITY DECAY			

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 11, 1985

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Judy Jacobson on Monday, March 8, 1985 in Room 410 of the State Capitol at 12:30.

ROLL CALL: All members were present. However, Senators Towe and Newman arrived late. Karen Renne, staff researcher, was also present.

There were many, many visitors in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 114: Representative Joan Miles of House District 45 in Helena, the sponsor of HB 114, gave a brief resume of the bill. This bill was requested by the Department of Health and Environmental Sciences. HB 114 is an act to generally revise and clarify the laws relating to swimming pools and bathing places; clarifying that the Department of Health and Environmental Sciences may set safety standards for public swimming pools and bathing places; and providing an immediate effective date.

Representative Miles handed out copies of the existing laws. See attachments. This same bill was introduced last session. The laws need to address the safety measures. There seems to be some confusion regarding "safety" in some places in the codes.

Sam Murfitt, representing the Montana Department of Health and Environmental Sciences, stood in support of the bill. Mr. Murfitt stated that safety has always been a major portion of a total swimming pool program throughout the nation. In Montana, safety has been a major portion of the swimming pool program since 1967 when the present law was passed. The law was written with safety included in some sections and not in others. In those sections where the terms "safety" or "safe" were not used, the term "to protect the public health" was substituted. Mr. Murfitt handed in written testimony for the record. See attachments.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Himsl asked if there is a need for this bill. Mr. Murfitt replied that there is a definite need for this legislation.

Ellie Parker, an attorney for the Department of Health, stated that the codes as written are difficult to enforce.

Senator Himsl asked if water slides are affected by this bill. The only way that water slides are affected is by the water quality. The buildling codes division is involved and, therefore, the Department of Health need not be involved other than the quality of the water.

Senator Stephens asked if the Department has a swimming pool expert. Mr. Murfitt replied that he is the one with the expertise regarding swimming pools.

Senator Lynch asked about Chico Hot Springs and the Diamond S Hotel and Pool at Boulder. These are grandfathered in the swimming pool safety standards.

Senator Lynch asked about the cost of this program. There is no cost.

Senator Towe asked the reason for the immediate effective date. Mr. Murfitt replied the reason for the immediate effective date is that being as pool season is coming soon and he would like to see these standards implmented before then.

Senator Hager asked if the university system is under the jurisdiction of the Department. Mr. Murfitt replied that they are indeed under the jurisdiction of the Department and are therefore, regulated by them.

Representative Miles closed.

CONSIDERATION OF HOUSE BILL 783: Representative Joan Miles of House District 45 in Helena, the chief sponsor of House Bill 783, gave a brief resume of the bill. This bill is an act establishing the rights of residents of long-term care facilities; providing that a resident must be informed of his rights; requiring posting of these rights by long-term care facilities; and providing penalties.

This bill was requested by the Department of Social and Rehabilitation Services.

The purpose of this bill is to recognize and establish certain fundamental civil and human rights to which all residents of a long-term care facility are entitled and to provide penalties for violation of these rights.

50-52-302. Department to pay local board for inspection. (1) Before June 30 of each year, the department shall pay to a local board of health, as established under 50-2-104, 50-2-106, or 50-2-107, an amount from the local board inspection fund [account] created by 50-2-108(2) which is for the purpose of inspecting establishments licensed under this chapter; provided, however, that there is a functioning local board of health and that the local board of health, local health officers, and sanitarians assist in the enforcement of the provisions of this chapter and the rules adopted under it.

(2) The funds received by the local board of health shall be deposited with the appropriate local fiscal authority and shall be in addition to the funds appropriated under 50-2-108 through 50-2-114.

History: En. Sec. 215, Ch. 197, L. 1967; amd. Sec. 4, Ch. 383, L. 1973; amd. Sec. 1, Ch. 506, L. 1975; R.C.M. 1947, 69-5604(part); amd. Sec. 7, Ch. 336, L. 1983.

Compiler's Comments

1983 Amendment: In (1), substituted "the local board inspection fund created by 50-2-108(2)" for "any general fund appropriation to the department".

Commissioner Correction: The bracketed word "account" in (1) was added by the Code Commissioner to use the correct name of the fund account created by 50-2-108(2).

CHAPTER 53

PUBLIC SWIMMING POOLS AND SWIMMING AREAS

Part 1 — General Provisions

Section
50-53-101. Purpose of regulation.
50-53-102. Definitions.
50-53-103. Duties of department.
50-53-104. Powers of health officers.
50-53-105. Publication of inspection reports.
50-53-106. Duties of pool operators.
50-53-107. Pool operation to be sanitary, healthful, and safe — when lifeguard not required.
50-53-108. Unauthorized construction or operation a public nuisance.
50-53-109. Violation of chapter a misdemeanor.

Part 1
General Provisions

Part Cross-References

Plans to bear professional seal, 18-2-122.

50-53-101. Purpose of regulation. It is the public policy of this state to regulate public swimming pools and public bathing places to protect public health. ← "safety" left out

History: En. Sec. 201, Ch. 197, L. 1967; R.C.M. 1947, 69-5501.

50-53-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences, provided for in Title 2, chapter 15, part 21.

(3) "Person" means a person, firm, partnership, corporation, organization, the state, or any political subdivision of the state.

(4) "Public bathing place" means a body of water with bathhouses and related appurtenances operated for the public.

(5) "Public swimming pool" means an artificial pool and bathhouses and related appurtenances for swimming, bathing, or wading, including natural hot water pools. The term does not include:

(a) swimming pools located on private property used for swimming or bathing only by the owner, members of his family, or their invited guests; or

(b) medicinal hot water baths for individual use.

History: Ap. p. Sec. 202, Ch. 197, L. 1967; amd. Sec. 24, Ch. 187, L. 1977; Sec. 69-5502, R.C.M. 1947; (1), (2)En. Sec. 2, Ch. 197, L. 1967; amd. Sec. 28, Ch. 349, L. 1974; Sec. 69-4102, R.C.M. 1947; R.C.M. 1947, 69-4102(1), (2), 69-5502.

50-53-103. Duties of department. (1) The department shall adopt rules for sanitation in public swimming pools and public bathing places to protect public health.

(2) The department shall supervise the sanitation of public swimming pools and public bathing places.

History: En. Secs. 203, 204, Ch. 197, L. 1967; amd. Secs. 104, 109, Ch. 349, L. 1974; R.C.M. 1947, 69-5503, 69-5504.

Cross-References

Rules for facilities at hotels and motels, 50-51-103.

50-53-104. Powers of health officers. Authorized employees of the department and local boards of health may:

(1) at reasonable times inspect public swimming pools and public bathing places to determine if provisions of this chapter and rules of the department are being violated;

(2) request an injunction from the district court to enjoin actions in violation of this chapter or rules adopted by the department;

(3) bring actions to abate nuisances maintained in violation of this chapter in the manner provided by law for the summary abatement of other public nuisances;

(4) enforce rules adopted by the department.

History: En. Sec. 205, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5505.

50-53-105. Publication of inspection reports. The department may publish reports of inspections authorized by 50-53-104(1).

History: En. Sec. 206, Ch. 197, L. 1967; R.C.M. 1947, 69-5506.

50-53-106. Duties of pool operators. Each person operating a public swimming pool or public bathing place shall:

(1) operate the pool or public bathing place in a sanitary and safe manner;

(2) keep records of public health and safety information required by the department;

(3) furnish information to the department on forms prescribed by it.

History: En. Sec. 208, Ch. 197, L. 1967; R.C.M. 1947, 69-5508.

50-53-107. Pool operation to be sanitary, healthful, and safe — when lifeguard not required. (1) Public swimming pools and public bathing places, including pool structures, methods of operation, source of water supply, methods of water purification, lifesaving apparatus, safety measures for bathers, and personal cleanliness measures for bathers, shall be sanitary, healthful, and safe.

(2) A lifeguard is not required for a privately owned public swimming pool if:

(a) a sign is prominently displayed on the swimming pool premises with the words "No lifeguard is on duty" or words of substantially the same meaning; and

(b) one individual per shift is on the premises, accessible to the pool, and currently certified as competent in:

(i) basic water safety measures by the American red cross; and

(ii) cardiopulmonary resuscitation by either the American red cross or the American heart association.

History: En. Sec. 209, Ch. 197, L. 1967; R.C.M. 1947, 69-5509; amd. Sec. 1, Ch. 302, L. 1983.

Compiler's Comments

1983 Amendment: Inserted (2).

50-53-108. Unauthorized construction or operation a public nuisance. The construction or operation of a public swimming pool or public bathing place contrary to the provisions of this chapter or rules adopted by the department under the provisions of this chapter is a public nuisance and dangerous to public health.

History: En. Sec. 210, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5510.

50-53-109. Violation of chapter a misdemeanor. A person who violates this chapter or rules adopted by the department under the provisions of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than $25 or more than $500, imprisonment for not more than 6 months, or both. Each day that a violation continues is a separate violation.

History: En. Sec. 211, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5511.

CHAPTERS 54 THROUGH 59

RESERVED

CHAPTER 60

BUILDING CONSTRUCTION STANDARDS

Part 1 — General Provisions

Section

50-60-101. Definitions.
50-60-102. Applicability.
50-60-103. Administration by department.
50-60-104. Inspection fees.

Hotel Motel law

50-51-215. Refusal by local health officer — appeal to board.

Part 3 — Inspections

50-51-301. Health officers to investigate and make inspections.
50-51-302. Health officers to have free access.
50-51-303. Department to pay local board for inspections.

Chapter Cross-References

Public swimming pools, Title 50, ch. 53.

Fire safety in public buildings, Title 50, ch. 61.

Hotelkeepers' liens, Title 71, ch. 3, part 14.

Part 1
General Provisions

50-51-101. Purpose of regulation. It is hereby found and declared that the public welfare requires control and regulation of the operation of establishments providing lodging space accommodations, as defined in 50-51-102 hereof, and the control, inspection, and regulation of persons engaged therein in order to prevent or eliminate unsanitary and unhealthful conditions and practices, which conditions and practices may endanger public health. It is further found and declared that the regulation of establishments providing lodging space accommodations as above outlined is in the interest of social well-being and the health and safety of the state and all of its people.

History: En. Sec. 1, Ch. 18, L. 1967; amd. Sec. 1, Ch. 485, L. 1973; R.C.M. 1947, 34-301.

50-51-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means board of health and environmental sciences.

(2) "Department" means the department of health and environmental sciences.

(3) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

(4) "Person" includes an individual, partnership, corporation, association, county, municipality, cooperative group, or other entity engaged in the business of operating, owning, or offering the services of a hotel, motel, tourist home, retirement home, or roominghouse.

(5) "Roominghouse", "boardinghouse", or "retirement home" means buildings in which separate sleeping rooms are rented providing sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or personal-care services provided by the facility.

(6) "Tourist home" means an establishment or premises where sleeping accommodations are furnished to transient guests for hire or rent on a daily

or weekly rental basis in a private home when the accommodations are offered for hire or rent for the use of the traveling public.

(7) "Transient guest" means a guest for only a brief stay, such as the traveling public.

History: En. Sec. 2, Ch. 18, L. 1967; amd. Sec. 2, Ch. 485, L. 1973; amd. Sec. 1, Ch. 325, L. 1977; R.C.M. 1947, 34-302; amd. Sec. 8, Ch. 597, L. 1983.

Compiler's Comments

1983 Amendment: Near beginning of (5), after "Roominghouse" inserted "boardinghouse"; at end of (5) after "nursing" deleted "services on a full-time basis" and inserted "or personal-care services provided by the facility".

50-51-103. Department authorized to adopt rules. The department may adopt and enforce rules to preserve the public health and safety. These rules shall relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls, water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and supervision, and fire and life safety code.

History: En. Sec. 6, Ch. 18, L. 1967; amd. Sec. 5, Ch. 485, L. 1973; R.C.M. 1947, 34-306(a).

50-51-104. Cooperative agreements authorized. The department is hereby authorized to enter into cooperative agreements with any of the state agencies or political subdivisions for the purpose of carrying out the provisions of this chapter or any part thereof.

History: En. Sec. 6, Ch. 18, L. 1967; amd. Sec. 5, Ch. 485, L. 1973; R.C.M. 1947, 34-306(b).

50-51-105. County attorney to prosecute violations. When the department furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person, firm, or corporation violating this chapter or a rule effective under this chapter.

History: En. Sec. 5, Ch. 18, L. 1967; amd. Sec. 7, Ch. 349, L. 1974; amd. Sec. 2, Ch. 505, L. 1975; R.C.M. 1947, 34-305(5).

50-51-106. Violation of chapter a misdemeanor. Any person violating any provision of this chapter or regulation made hereunder, except 50-51-107, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $50 or more than $100 for the first offense and not less than $75 or more than $200 for the second offense and for the third and subsequent offenses not less than $200 and by imprisonment in the county jail not to exceed 90 days.

History: En. Sec. 9, Ch. 18, L. 1967; R.C.M. 1947, 34-309; amd. Sec. 18, Ch. 37, L. 1979.

50-51-107. Provision of nursing services or personal-care services by the facility prohibited. (1) Hotels, motels, boardinghouses, roominghouses, or similar accommodations may not provide professional nursing services or personal-care services. A resident of a hotel, motel, boardinghouse, roominghouse, or similar accommodation may have personal-care, medical, or nursing-related services provided for him in such facility by a third-party provider.

(2) Whenever a complaint is filed with the department that a person in need of professional nursing services is residing in a roominghouse or other

> The department [of health and environmental sciences] may adopt and enforce rules to preserve the public health and safety. These rules shall relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls, water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and supervision, and fire and life safety code. (Emphasis added.)

This statute expressly delegates to the Department the authority to adopt rules concerning construction standards for hotels or motels relating to safety. If a hotel or motel provides a swimming pool for the use of its guests, that swimming pool must comply with any rules specifying construction standards adopted by the Department pursuant to section 50-51-103. The Department has adopted such a rule. ARM 16.10.618 states:

> The construction and operation of any swimming pool, hot bath, mineral bath, or public swimming place in connection with any hotel, motel, or tourist home shall be in accordance with Title 50, Chapter 53, MCA and department rules regarding the construction and operation of swimming pools.

Because this rule was adopted under the expressly delegated authority of section 50-51-103, MCA, it has the force of law. See § 2-4-102(11)(a), MCA. Thus, the same rules concerning construction standards for safety which are interpretive only in their application to public swimming pools generally, have the force of law as applied to hotel, motel, or tourist home swimming pools.

THEREFORE, IT IS MY OPINION:

1. The statutes in Title 50, Chapter 53, MCA, concerning public swimming pools, apply to health club swimming pools.

2. Title 50, Chapter 53, MCA, authorizes the Department of Health and Environmental Sciences to adopt interpretive rules concerning construction standards relating to safety for public swimming pools generally.

3. Section 50-51-103, MCA, authorizes the Department of Health and Environmental Sciences to adopt legislative rules, having the force of law, concerning construction standards relating to safety for swimming pools operated in connection with hotels, motels or tourist homes.

Very truly yours,

MIKE GREELY
Attorney General

Proposed amendment to HB 114 as introduced:

1. Page 2, line 19.
Following: "~~(1)~~"
Insert: "(1)"

2. Page 2, Line 24
Following: [redacted] "~~-~~"
Insert: "(2) Any rule that is a building regulation as defined in 50-60-101 is effective only when the department of administration approves it and files it with the secretary of state as part of the state building code pursuant to 50-60-204."

INFORMATION RELATIVE TO H.B. 114

Historically, safety has been a major portion of a total swimming pool program throughout the nation.

In Montana, safety has been a major portion of the swimming pool program since 1967 when the present law was passed. The law was written with safety included in some sections and not in others. In those sections where the terms "safety" or "safe" were not used, the term "to protect the public health" was substituted.

Rules were adopted pursuant to the law and both safety and sanitation were addressed.

The purpose of this bill is therefore to clarify those sections where the term "to protect public health" is used instead of the terms "safe" or "safety" and to make those sections consistent with the rest of the law.

Some of the items which would be covered under the "safety" heading are as follows: improper bottom slope, inadequate depth for diving, absence of shallow end, lighting, underwater protrusions, no pool decking, warning signs or other life saving apparatus, depth markings, fencing, pool water clarity, etc.

In many cases safety and sanitation aspects of swimming pool design, maintenance and operation are interrelated. For example, water clarity (which can be a safety problem) is maintained by proper balancing of water chemistry (chlorine, pH, etc.) which in turn inhibits bacterial growth and the transmission or spread of disease.

Swimming pool safety rules are supported and recommended by the swimming pool industry and expected by the general public utilizing public swimming facilities.

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 3/11/85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
6	SENATOR JUDY JACOBSON, CHAIRMAN	✓		
5	SENATOR J. D. LYNCH, V.CHAIRMAN	✓		
42	SENATOR TOM HAGER	✓		
30	SENATOR MATT HIMSL	✓		
17	SENATOR TED NEWMAN	late		
45	SENATOR BILL NORMAN	✓		
14	SENATOR STAN STEPHENS	✓		
26	SENATOR TOM TOWE	late		

Each day attach to minutes.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
TED BECK	MYSEK	649	X	
SAM MURFITT	Mont. Dept Hlth	114	X	
Ellie Parker	"	114	X	
B.J. Creany	Board of Dentistry	649		X
Brian Ruckman	American Diabetes Assoc	817	X	
Joe Upshaw	AM Assn Retired People for Legacy Legislature	649	X	
Joe Upshaw	" "	783	X	
Terry Regan	M.S.C.A.	649	✓	
Tom Regan	Bill of Rts	783	✓	
E Reilly	M.S. CA.	649	X	
E N Reilly	M.S. CA	783	X	
Norma Hess	SRS	807 783	X	
Debra Meadows	SRS	540	X	
Charles Brooks	Governor's Office	HB 783 HB649	X	
Mona Jamison	"	HB649	X	
Molly O'Leary	MONTANA	HB 783	X	
Mary Lou Loomis	Commerce	HB649	X	
Bruce Rueck	Self	HB649	—	
Pete Heavy	Montana Health Care Assn	HB783	Amend	
Dr Jeff Sheckler	Academy of Pediatrics	HB807	✓	
Dennis Lundt	Mt. Medical Assoc	HB817	✓	
D. Fuller	Self Policyholder	HB783	Y	
Jo Anne Gutenberg	MEA	HB540	✓	
Kenneth Mankin	MAHP	HB817	✓	
Tom McElaney	MBS Blue Shield	HB817	✓	

NAME: SAMUEL J. MURFITT DATE: 3-11-85

ADDRESS: Helena MT

PHONE: 444-2823

REPRESENTING WHOM? Mont Dept Hlth.

APPEARING ON WHICH PROPOSAL: HB 114

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: See attachments

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 13, 1985

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by chairman, Judy Jacobson on Wednesday, March 13, 1985 in Room 410 of the State Capitol at 12:30 p.m.

ROLL CALL: All members were present with the exception of Senator Lynch who arrived late. Karen Renne, staff researcher was also present.

There were many, many people in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 720: Representative Jan Brown of Helena, the chief sponsor of HB 720, gave a brief resume of the bill. This bill is an act to establish an office of long-term care ombudsman within the office of the governor, to specify the powers and duties of the ombudsman; to impose certain requirements on long-term care facilities; to provide for access to and confidentiality of records; and providing an effective date.

Doug Blakely, the state ombudsman from the governor's office, stood in support of the bill. He stated that the ombudsman bill covers the operation of two advocacy programs for senior citizens, the Long-term Care Ombudsman Program and the Elderly Legal Services Developer Program. The program is currently administratively attached to the Governor's Office. Financial monitoring and overall grant monitoring is done by SRS, since they receive the federal funds for the program. Daily supervision is provided by the Board of Visitors, which is also attached to the Governor's Office. Basic duties include investigation and resolving complaints on the health, safety, welfare and rights of residents as well as cases of elder abuse, neglect or exploitation pertaining to long-term care residents; monitoring legislation, laws effecting long-term care residents; providing information to public agencies on long-term care issues; and promoting the development of citizen organizations in long-term care facilities. Mr. Blakely handed out fact sheets to the members of the Committee for their consideration. See attachments.

Molly Munro, Executive Secretary for the Montana Association of Homes for the Aging, stood in support of the bill. She stated that this bill provides that the office of long-term care ombudsman be placed in the Governor's office to give it greater autonomy. This is most necessary. Mrs. Munro handed in testimony for the Committee to consider. See attachments.

A motion was made by Senator Hager that HB 465 BE NOT CONCURRED IN. Motion carried with Senators Towe and Norman voting "no" all other senators voting "yes".

Representative Hannah arrived.

FURTHER CONSIDERATION OF HOUSE BILL 807: This is Representative Hannah's bill dealing with protection of children by requiring medical treatment being provided.

Representative Hannah explained the bill.

Senator Towe asked about the definition of the age of children. This bill addresses children, as those under the age of one year old.

Representative Hannah told of an instance in Indiana where a child which was born mentally retarded was let to starve to death.

Senator Stephens asked about the federal laws. There are federal laws which cover most of this at the present time, however, they could be changed very quickly and Montana would be left with nothing.

Senator Newman stated that there has not been a case of this in Montana and if there would be, the federal law would take care of it.

A motion was made by Senator Towe that HB 807 Be Concurred In.

A substitute motion was made by Senator Newman that HB 807 BE TABLED. Motion carried.

Senator Hager stated that he felt that is was very important that the entire team decide to withhold medical treatment.

ACTION ON HOUSE BILL 114: Representative Joan Miles of Helena introduced this bill at the request of the Department of Health and Environmental Sciences. This bill is an act generally revising and clarifying the laws relating to swimming pools and bathing places; clarifying that the Department of Health and Environmental Sciences may set safety standards for public swimming pools and bathing places; and providing an immediate effective date.

Senator Hager asked if this bill will address the problem which his daughter and the rest of her diving team incurred at Bozeman Senior High where the diving tank is only 9 feet deep. Dr. John Drynan from the Department of Health stated that this problem would be addressed by this bill.

Senator Stephens asked if the state has been sued because of this problem and was told that in fact, the state has been sued because of the problem.

Senator Himsl asked if slides would be covered in this bill. Dr. Drynan assured Senator Himsl that slides that are a part of a swimming pool or public bathing place would be covered in this bill.

A motion was made by Senator Towe that HB 114 be amended as per the sponsor's request. Motion carried.

A motion was made by Senator Stephens that HB 114 BE CONCURRED IN AS AMENDED. Motion carried. Senator Towe will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 540: Representative Jerry Devlin is the chief sponsor of HB 540. This bill is an act establishing and funding a child abuse prevention program.

A motion was made by Senator Himsl that HB 540 BE TABLED IN COMMITTEE. Motion carried. He stated that SB 19 is more of more acceptable way to handle the problem according to those people testifying on both of the bills.

ACTION ON HOUSE BILL 649: Representative Jack Moore of Great Falls is the chief sponsor of HB 649. This bill is an act revising for administrative purposes the laws relating to regulation of the practice of denturity.

The amendments presented by the Governor's Office were discussed. A motion was made by Senator Towe that the Governor's amendments be adopted. Motion carried.

A motion was made by Senator Hager that HB 649 BE CONCURRED IN AS AMENDED. Motion carried with Senators Newman and Himsl voting "no" and all others present voting "yes". Senator Bengston will carry this bill on the floor of the Senate.

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 3/13/85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
6	SENATOR JUDY JACOBSON, CHAIRMAN	✓		
5	SENATOR J. D. LYNCH, V.CHAIRMAN	late		
42	SENATOR TOM HAGER	✓		
30	SENATOR MATT HIMSL	✓		
17	SENATOR TED NEWMAN	✓		
45	SENATOR BILL NORMAN	✓		
14	SENATOR STAN STEPHENS	✓		
26	SENATOR TOM TOWE	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

MARCH 13, 1985

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 114,

THIRD reading copy (BLUE color)

DEPARTMENT OF HEALTH TO ADOPT SWIMMING POOL SAFETY STANDARDS

MILES (TOWE)

Respectfully report as follows: That HOUSE BILL No. 114,

be amended as follows:

1. Page 2, line 19.
Following: "~~(1)~~"
Insert: "(1)"

2. Page 2, line 25.
Following: line 24.
Insert: "(2) Any rule relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings or installation of equipment in buildings is effective only when it has been adopted by the department of administration as part of the state building code and filed with the secretary of state pursuant to 50-60-204."

~~DO PASS~~

~~DO NOT PASS~~ AND AS AMENDED
BE CONCURRED IN

Judy Jacobson

SENATOR JUDY JACOBSON Chairman.

SENATE COMMITTEE OF THE WHOLE AMENDMENT

Mar 18, 1985
DATE

4:30
TIME

MR. CHAIRMAN: I MOVE TO AMEND the STATEMENT OF INTENT, HOUSE BILL No. 114

third reading copy (blue) as follows:
Color

Statement of Intent.
Page 1, line 25 and line 1, page 2.
Following: "requirements" on line 25
Strike: "such as lifeguards"

PC3HB114.581

KB

ADOPT

REJECT

STORY

GOVERNOR'S PROPOSED AMENDMENT
TO HOUSE BILL NO. 114,
REFERENCE COPY
April 16, 1985

1. Page 3, line 4.
Following: "OF" on line 3
Strike: "ADMINISTRATION"
Insert" "COMMERCE"

-END-

STATEMENT OF INTENT

HOUSE BILL 114

House Human Services and Aging Committee

A statement of intent is needed for House Bill 114 because it grants the department of health and environmental sciences express authority to adopt enforceable, binding rules setting safety standards for public swimming pools and bathing places.

The department presently has the authority to ensure that public swimming pools and bathing places are safe. However, the section of the law granting the department authority to make binding rules relating to swimming facilities omits mention of safety standards. Therefore, the rules the department has adopted to indicate the safety measures it considers necessary to protect public health are not legally binding, except in regard to pools in hotels, motels, roominghouses, tourist homes, boardinghouses, or retirement homes, for which the department has separate regulatory authority under other statutes.

Therefore, it is the intent of the legislature that the department of health and environmental sciences has express rulemaking authority to adopt binding safety standards for swimming pools and bathing places, including construction specifications and operational requirements ~~such--as~~

~~lifeguards.~~

HB 114

REFERENCE BILL: INCLUDES GOVERNOR'S AMENDMENTS DATED 4-16-85

HOUSE BILL NO. 114

INTRODUCED BY MILES

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO SWIMMING POOLS AND BATHING PLACES; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES MAY SET SAFETY STANDARDS FOR PUBLIC SWIMMING POOLS AND BATHING PLACES; AMENDING SECTIONS 50-53-101 THROUGH 50-53-103 AND 50-53-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-53-101, MCA, is amended to read:

"50-53-101. Purpose of regulation. It is the public policy of this state to regulate public swimming pools and public bathing places to protect public health and safety."

Section 2. Section 50-53-102, MCA, is amended to read:

"50-53-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

~~(1)--"Board"---means---the---board---of---health----and environmental-sciences,-provided-for-in-2-15-2104.~~

~~(2)~~(1) "Department" means the department of health and environmental sciences, provided for in Title 2, chapter 15, part 21.

~~(3)~~(2) "Person" means a person, firm, partnership, corporation, organization, the state, or any political subdivision of the state.

~~(4)~~(3) "Public bathing place" means a body of water with bathhouses and related appurtenances operated for the public.

~~(5)~~(4) "Public swimming pool" means an artificial pool and bathhouses and related appurtenances for swimming, bathing, or wading, including natural hot water pools. The term does not include:

(a) swimming pools located on private property used for swimming or bathing only by the owner, members of his family, or their invited guests; or

(b) medicinal hot water baths for individual use."

Section 3. Section 50-53-103, MCA, is amended to read:

"50-53-103. ~~Duties---of---department.~~ Sanitation and safety rules. ~~(1)~~ (1) The department shall adopt rules ~~for~~ setting standards to ensure sanitation and safety in public swimming pools and public bathing places to protect public health and safety.

~~(2)--The--department--shall-supervise-the-sanitation-of public-swimming-pools-and-public--bathing--places.~~ (2) ANY RULE RELATING TO THE DESIGN, CONSTRUCTION, RECONSTRUCTION,

ALTERATION, CONVERSION, REPAIR, INSPECTION, OR USE OF BUILDINGS OR INSTALLATION OF EQUIPMENT IN BUILDINGS IS EFFECTIVE ONLY WHEN IT HAS BEEN ADOPTED BY THE DEPARTMENT OF ~~ADMINISTRATION~~ COMMERCE AS PART OF THE STATE BUILDING CODE AND FILED WITH THE SECRETARY OF STATE PURSUANT TO 50-60-204."

Section 4. Section 50-53-108, MCA, is amended to read:

"50-53-108. Unauthorized construction or operation a public nuisance. The construction or operation of a public swimming pool or public bathing place contrary to the provisions of this chapter or rules adopted by the department under the provisions of this chapter is a public nuisance and dangerous to public health and safety."

NEW SECTION. Section 5. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW SECTION. Section 6. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Extension of authority. Any existing authority of the department of health and

environmental sciences to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 8. Effective date. This act is effective on passage and approval.

-End-